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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/757,646	01/13/2004	Tracee Eidenschink	S63.2B-11321-US01	3946
23552 7590 12/31/2007 MERCHANT & GOULD PC P.O. BOX 2903 MINNEAPOLIS, MN 55402-0903			EXAMINER SEVERSON, RYAN J	
			ART UNIT 3731	PAPER NUMBER
			MAIL DATE 12/31/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

mn

<b>Office Action Summary</b>	Application No. 10/757,646	Applicant(s) EIDENSCHINK ET AL.	
	Examiner Ryan Severson	Art Unit 3731	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 October 2007.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9, 15, 21, 22, 24-38 and 51-65 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9, 15, 21, 22, 24-38 and 51-65 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 March 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 15 October 2007 has been entered.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. **Claims 1-9, 15, 21, 22, and 24-38 and 51-65 are rejected under 35 U.S.C. 102(e) as being anticipated by Eidenschink et al. (2005/0149161).**

4. The applied reference has a common assignee and inventor (Eidenschink) with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this

application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

5. Regarding claims 1 and 62, Eidenschink reference discloses a catheter assembly with a catheter shaft (116) having a balloon (114) underlying a rotatable sheath (the combination of elements 102, 170, and 172, see figures 10 and 13 and paragraphs 59 and 122). The sheath has a first portion (172) and a second portion (102, the middle of the sheath). The inner diameter of the first portion is less than the inner diameter of the second portion. The balloon has a first portion (the distal end) and a second portion (the center). The first portion of the sheath overlies the first portion of the balloon, and likewise the second portion of the sheath overlies the second portion of the balloon in the unexpanded state (see figure 10). As described in paragraph 122, both end sleeves (170 and 172) rotate in conjunction with the middle portion of the sheath (102) and therefore are interpreted as part of the sheath. The catheter assembly further includes a guidewire housing (104). The guidewire housing is engaged to the proximal portion of the sheath (see figure 10). A stent (120) is disposed about the sheath and the guidewire housing (see figure 10). The proximal end sleeve (170) is interpreted as the third sheath section. The middle section (102) lies axially between the first and third sections (172 and 170). Both the first and third portions are tapered with inner diameters less than the inner diameter of the second portion. The second portion has an inner diameter that is constant along its length (see figure 10).

6. Regarding claims 24-29 and 51-61, the stent can be coated with a therapeutic agent (see paragraphs 72-107) including any and all of those agents listed in the claims.
7. Regarding claim 30, the catheter assembly can include a lubricious coating between the sheath and the catheter (see paragraph 65).
8. Regarding claims 31-37, the sheath can be constructed substantially as claimed (see paragraphs 60-64), as was described in greater detail in the action of 06/12/2007.
9. Regarding claim 38, the sheath has a length less than that of the catheter (see figure 10).

#### ***Response to Arguments***

10. Applicant's arguments with respect to claims 1-9, 15, 21, 22, and 24-38 and 51-65 have been considered but are moot in view of the new ground(s) of rejection.

#### ***Conclusion***

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ryan Severson whose telephone number is (571) 272-3142. The examiner can normally be reached on Monday - Friday 9:00 - 5:30.
12. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Todd Manahan can be reached on (571) 272-4713. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

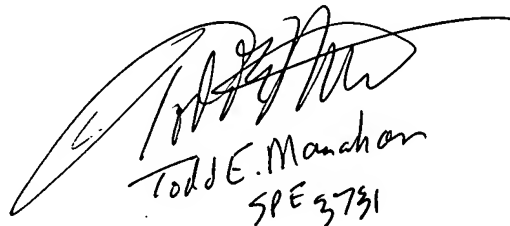
Application/Control Number:  
10/757,646  
Art Unit: 3731

Page 5

13. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

R.S.

Ryan Severson  
December 19, 2007



Todd E. Manchon  
SPE 3731